IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.26 OF 1995
IN
WRIT PETITION NO.1734 OF 1986

State of Maharashtra & ors. Petitioners
(original Respondents)

vs.

Dhondupant Kondaji Khandke Respondent
(original Petitioner)

Ms.Madhubala Kajale, A.G.P. for the petitioners.

Ms.S.R.Pandey for the respondent.

**CORAM : R. M. LODHA &**
**R. S. MOHITE,JJ**.

**DATED : 3rd May 2005**

**P.C.**

Heard Ms.Madhubala Kajale, the learned counsel for the review petitioners.

2. We perused the order dated June 26, 1995 of which review is sought. In the review petition the case has been set up by the review petitioners (original respondents) that the subject premises were on tenancy with the present respondent (original writ petitioner) and that the said premises were not requisitioned.

3. In the review petition, the review petitioners cannot be permitted to say so for more than one reason. Firstly, the Assistant Government Pleader who appeared

before the Division Bench conceded that the said premises were requisitioned in the year 1940 and the Court acted upon the said concession. Secondly and more importantly in response to the writ petition, no reply affidavit was filed. No case was set up by the review petitioners (original respondents) that the subject premises were not requisitioned, but were on tenancy with the writ petitioner as the case is now sought to be set up in the review petition. The review petitioners cannot be permitted to set up a new case in the review petition which was never set up either by way of reply in response to the writ petition or during the course of arguments.

4. Review petition has no merit and is dismissed with no order as to costs.

**(R.M. LODHA,J.)**

**(R.S. MOHITE,J.)**